

BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
ST. REGIS PAPER COMPANY,

Appellant,

v.

PUGET SOUND AIR POLLUTION  
CONTROL AGENCY,

Respondent.

PCHB Nos. 81-75, 81-128  
and 81-158

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER

This matter, the consolidated appeals from the issuance of thirteen \$250 civil penalties for the alleged violation of Section 9.03(b) of respondent's Regulation I, came before the Pollution Control Hearings Board, Nat Washington (presiding) and David Akana on December 2, 1981, in Lacey.

Appellant was represented by its attorneys, Michael R. Thorp and C. John Newlands; respondent was represented by its attorney, Keith D. McGoffin. Olympia court reporter Kim Otis recorded the proceedings.

Having heard the testimony, having examined the exhibits and

1 having considered the contentions of the parties, the Board makes thes

2 FINDINGS OF FACT

3 I

4 Appellant St. Regis Paper Company operates four hog fuel boilers  
5 at its facility at 801 Portland Avenue in Tacoma, Washington.  
6 Combined emissions from three boilers, identified as Nos. 3, 4 and 5,  
7 are exhausted through a wet scrubber. Emission from a fourth hog fuel  
8 boiler, known as No. 2 boiler are exhausted through a separate wet  
9 scrubber. The emissions from boilers 3, 4, and 5 can by-pass the  
10 scrubber and exhaust through the main stack, if necessary.

11 II

12 All four of these boilers are required to attain and maintain  
13 normal, continuous, plant operation. Emissions from the boilers  
14 by-pass the scrubber during start-up until sufficient power is  
15 generated to operate other equipment. During normal operation, the  
16 hog fuel boilers meet opacity and grain loading air pollution  
17 requirements.

18 III

19 On February 4, 5, 6, April 27, 28, 29 (8:28 a.m. and 2:31 p.m.),  
20 July 14, 15, 16 (9:20 a.m. and 2:29 p.m.), and August 11, 1981,  
21 emissions exceeding the opacity limits established by Section 9.03(b)  
22 of respondent's Regulation I were recorded by respondent's inspector  
23 from boiler stacks Nos. 2 and/or 3, 4 and 5. On May 28, 1981,  
24 emissions exceeding the opacity limits were recorded for 6-3/4 minutes  
25 of 8 minutes by a qualified plume reader employed by the U.S.

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER

1 Environmental Protection Agency. For each alleged violation, St.  
2 Regis was given a notice of violation from which followed a \$250 civil  
3 penalty for each incident, totalling \$3,250 and 13 violations.

4 IV

5 The violations observed on February 4, 5 and 6 (civil penalty  
6 Nos. 5061, 5062, and 5063) were caused by worn fan blades and fan  
7 casing on the hog fuel boiler exhaust system for Nos. 3, 4 and 5.  
8 Appellant informed respondent in a timely fashion of the event on  
9 February 4 and provided the information requested by respondent.

10 The violations observed on April 27, 28 and 29 (civil penalty  
11 Nos. 5076, 5077 and 5088) were caused by worn fan blades. Appellant  
12 similarly informed respondent in a timely fashion of the event on  
13 April 27, and substantially provided the information requested by  
14 respondent.

15 The wear common to the foregoing events was caused by  
16 noncombustible, abrasive materials in the hog fuel which became  
17 entrained in the exhaust system for boilers No. 3, 4, and 5.  
18 St. Regis is aware that scheduled maintenance is required to keep the  
19 exhaust system in proper operation and follows normal industry  
20 maintenance procedures. Its approach, which has not been shown to be  
21 unreasonable, is to inspect and repair the system at scheduled times  
22 and at other opportunities. Although it can anticipate that wear will  
23 occur, St. Regis cannot accurately predict when such wear will cause  
24 its equipment not to function properly.

V

The violation observed on July 14, 1981, (civil penalty No. 5223) was caused by the normal start-up of the No. 5 hog fuel boiler. Appellant informed respondent in a timely fashion of its operation and provided sufficient information as requested by respondent. The emissions from such start-up are unavoidable.

VI

The violation observed on July 16, 1981, (civil penalty No. 5226) was caused by an unserviceable bearing on the scrubber fan for hog fuel boiler Nos. 3, 4 and 5. The fan bearing was replaced and the unit returned to service the following day. Appellant believes it notified respondent of the event.

VII

The violations occurring on the remaining dates, April 25, July 15, 16 and August 11, 1981, (civil penalty Nos. 5189, 5224, 5227, and 5252) occurred without notice to respondent or adequate explanation as to their causes for purposes of avoidance under Section 9.16 or for mitigation.

VIII

When installed in 1972, the air pollution control equipment for the hog fuel boilers, i.e., wet scrubbers, were the best available at that time. Currently, the best available equipment are baghouses. The source of appellant's difficulties in February and April appears to be the combustion efficiency of its old boilers. Appellant's consultant believes that improvements to the boilers can be the best

1 way to achieve continual compliance with regulations. Some  
2 improvements have already been made.

3 IX

4 Pursuant to RCW 43.21B.260, respondent has filed with this Board a  
5 certified copy of its Regulation I and amendments thereto which are  
6 noticed.

7 Section 9.03(b) makes it unlawful for any person to cause or allow  
8 the emission of any air contaminant, here smoke, for a period  
9 totalling more than three minutes in any one hour which is greater or  
10 equal to twenty percent opacity.

11 Section 9.16 provides that emissions exceeding any of the limits  
12 established as a direct result of start-ups, periodic shutdown, or  
13 unavoidable and unforeseeable upset or breakdown of process equipment  
14 or control apparatus shall not be deemed in violation if (1) the  
15 operator immediately notifies respondent of the occurrence together  
16 with the pertinent facts regarding the nature of the problem, time,  
17 date, duration, and anticipated influence on emissions, and (2) the  
18 operator submits a full report, on request, including the known causes  
19 and the preventive measures taken.

20 Section 3.29 provides for a civil penalty of up to \$250 per day  
21 for each violation of Regulation I.

22 X

23 Any Conclusion of Law which should be deemed a Finding of Fact is  
24 hereby adopted as such.

25 From these Findings the Board enters these

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER

1 CONCLUSIONS OF LAW

2 I

3 Appellant St. Regis caused or allowed emissions exceeding the  
4 limits established by Section 9.03(b) of Regulation I as alleged in  
5 notices of civil penalty Nos. 5061, 5062, 5063, 5075, 5076, 5077,  
6 5088, 5223 and 5226. The exceedences were the result of start-ups,  
7 periodic shutdown, or unavoidable and unforeseeable failure or  
8 breakdown. Appellant notified respondent and provided the reports  
9 requested. Appellant complied with, or substantially complied with,  
10 Section 9.16 and is deemed not to be in violation of Section 9.03(b)  
11 for the events in question. The penalties assessed therefor should be  
12 set aside.

13 II

14 Appellant St. Regis caused or allowed emissions exceeding the  
15 limits established by Section 9.03(b) of Regulation I as alleged in  
16 notices of civil penalty Nos. 5189, 5224, 5227 and 5252. The  
17 violations have not been shown to be excusable under Section 9.16, or  
18 otherwise mitigable. Accordingly, the penalties, totalling \$1000,  
19 should be affirmed.

20 III

21 Any Finding of Fact which should be deemed a Conclusion of Law is  
22 hereby adopted as such.

23 From these Conclusions the Board enters this  
24  
25

26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER

ORDER

1. Civil penalty Nos. 5061, 5062, 5063, 5075, 5076, 5077, 5088, 5223 and 5226 are each vacated.

2. Civil penalty Nos. 5189, 5224, 5227 and 5252 totalling \$1000 are each affirmed.

DONE this 3<sup>rd</sup> day of February, 1982.

POLLUTION CONTROL HEARINGS BOARD

Nat W. Washington  
NAT W. WASHINGTON, Chairman

David Akana  
DAVID AKANA, Member

(Did Not Participate)  
GAYLE ROTHROCK, Member

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW & ORDER